

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA**

**V.**

**BERTIN BARCENAS-JAIMES**

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**CRIMINAL NUMBER 17-081-1**

**DEFENDANT’S SENTENCING MEMORANDUM**

Bertin Barcenas-Jaimes (“Mr. Barcenas”) submits this memorandum in aid of sentencing and respectfully requests the court impose sentence of time-served. As outlined in ¶ 57 of the Presentence Report (“PSR”) dated July 31, 2017, the recommended sentencing guideline range calls for 0 to 6 months’ incarceration. Mr. Barcenas’ first appearance in federal court was February 15, 2017. As such, by the August 16, 2017, he will have served just over six months. Additionally, Mr. Barcenas was in immigration custody for approximately one month before making his first appearance in federal court. As such, a sentence of time-served is within the low end of the recommended guideline range. Additionally, a sentence other than time served would be greater than necessary to achieve the goals pursuant to *United States v. Booker*, 543 U.S. 220 (2005) and 18 U.S.C. § 3553(a). For all the reasons cited herein, time-served is the appropriate sentence in this case.

**I. MR. BARCENAS PERSONAL HISTORY**

Mr. Barcenas grew up poor in Toluca, Mexico. His father worked as a sugar cane factory and his mother was a seamstress. Presentence Report (“PSR”) ¶¶ 33-34. Despite his parents hard work, Mr. Barcenas and his five siblings often went without food and clothing. *Id.* As a

young man, he worked as a corn farmer after he left school in the ninth grade because his family could not pay for high school. PSR ¶¶ 46, 50.

Eventually, Mr. Barcenas came to the United States to find work. He has consistently worked as a laborer doing everything from sheetrock, to flooring, to cement work. PSR ¶¶ 48-49. He is married to Uvalde Jaimes Gomez and together they have three children, ages 3, 4, and 6. Uvalde and the children live in Toluca, Mexico. PSR ¶ 37. Unfortunately, Mr. Barcenas recently learned his wife was diagnosed with cancer. PSR ¶ 38. Mr. Barcenas has supported his family and is looking forward to being reunited with them after his inevitable deportation. *Id.*

## **II. APPLICATION OF THE STATUTORY FACTORS TO THIS CASE**

The defense respectfully submits that any sentence beyond time served is greater than necessary to achieve the sentencing goals of 18 U.S.C. § 3553(a). Mr. Barcenas has served just over six months already and was in immigration custody for approximately one month before his initial appearance. Additionally, he will be returned to immigration custody when he is finished serving his sentence for this Court. That may result in additional incarceration until he is ultimately deported. A sentence of time served is within the low end of the guideline range and warranted in this case.

Mr. Barcenas has worked hard from a very young age. He worked in in corn fields as a young man and honed his skills as a laborer in the United States. He deeply devoted to his family and has consistently supported them. Since his incarceration, he has been unable to provide for them at all. More importantly, he has not been able to be present with his wife while she is fighting cancer. Mr. Barcenas recognizes that if he reenters the United States illegally in the future, he will face nothing but further incarceration. While employment opportunities in Mexico are not as lucrative in the United States, Mr. Barcenas knows that he cannot support his

family at all while incarcerated. Being with his family in Mexico, especially while his wife undergoes cancer treatment, is the upmost priority for Mr. Barcenas at this time.

There are no medical or educational considerations for this Court when fashioning an appropriate sentence. Fortunately, Mr. Barcenas is in good health. PSR ¶ 42. Additionally, due to Mr. Barcenas' status as a deportable alien, it is highly unlikely that he would be afforded vocational or educational opportunities. The presence of an immigration detainer will limit access to programs available to similarly-situated United States citizens, including literary and English as a Second Language programs, as similarly-situated United States citizens. 28 C.F.R. § 544.51(b) ("Generally, inmates under orders of deportation, exclusion, or removal may participate in an institution's occupational education program if Bureau resources permit after meeting the needs of other eligible inmates"); 28 C.F.R. § 544.41(a)(3). In essence, Mr. Barcenas will only be permitted to participate in educational and occupational programs after all eligible United States citizen inmates are enrolled – an unlikely scenario considering budgetary restraints.

Lastly, the public will be protected from future criminal acts by the defendant because he is subject to a detainer from the Bureau of Immigration and Customs Enforcement ("ICE"). After he serves his sentence for this Court, he will be turned over to the custody of the ICE for administrative proceedings and possibly further detention. Mr. Barcenas does not overlook his prior conviction detailed in ¶ 26 of the PSR. He respectfully asks this Court to consider that this offense occurred nearly eleven years and it was his only criminal conviction. In that case, as in the present case, Mr. Barcenas admitted his guilt and accepted full responsibility for his actions.

**III. CONCLUSION**

For all the reasons cited herein, as well as any which become apparent to the Court at the sentencing hearing, Mr. Barcenas respectfully requests this Court impose a sentence of time-served.

Respectfully submitted,

/s/ Nancy MacEoin  
NANCY MacEOIN  
Assistant Federal Defender

**CERTIFICATE OF SERVICE**

I, Nancy MacEoin, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that I have served a copy of the Defendant's Sentencing Memorandum, by electronic notification or hand delivery to her office, upon Denise S. Wolf, Assistant United States Attorney, office located at 615 Chestnut Street, Suite 1250, Philadelphia, Pennsylvania 19106.

/s/ Nancy MacEoin  
NANCY MacEOIN  
Assistant Federal Defender

DATE: August 10, 2017